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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/341,379  | 07/09/1999  | VALERIO AISA         | MERL0060US          | 5053             |
| 24267   | 7590        | 05/03/2004           | EXAMINER            |                  |
| CESARI AND MCKENNA, LLP<br>88 BLACK FALCON AVENUE<br>BOSTON, MA 02210 |             |                      | BECKER, DREW E      |                  |
|   |             | ART UNIT             |                     | PAPER NUMBER     |
|   |             |                      |                     | 1761             |

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |               |
|------------------------------|-----------------|---------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s)  |
|                              | 09/341,379      | AISA, VALERIO |
|                              | Examiner        | Art Unit      |
|                              | Drew E Becker   | 1761          |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 March 2004.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 44-55 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 44-55 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Specification***

1. The disclosure is objected to because of the following informalities: the specification lacks section headings such as "Background of the Invention" and "Brief Description of the Drawings".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 44-55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 44 recites "basic cooking functions" and "non-basic cooking functions". It is not clear what functions would be considered "basic" or "non-basic".
5. Claim 44 recites "a memory that includes... dynamically changing the heating element configuration..., dynamically selecting among heating sub-systems". It is not clear a "memory" could perform these operations.
6. Claim 45 recites a "conventional... sub-system" It is not clear what type of sub-system would be considered "conventional".
7. Claim 51 is dependent upon canceled claim 7. it is not clear what claim it should depend from.

8. Claim 52 recites "basic washing functions" and "non-basic washing functions". It is not clear what functions would be considered "basic" or "non-basic".

9. Claim 52 recites "a memory that includes... dynamically selecting the time or conditions for starting..., dynamically selecting temperatures, timing, and/or duration". It is not clear a "memory" could perform these operations.

10. Claim 53 recites "low-cost energy times". It is not clear what times would be considered "low-cost".

11. Claim 54 recites "a second set of pre-programmed appliance functions that cannot be selected or controlled by the signals provided by the knobs or buttons". It is not clear what types of functions "cannot be selected or controlled" by the knobs or buttons.

12. Claim 54 recites "operating the appliance in accordance with... the control panel; or in accordance with the... controller". It is not clear whether both previous steps of "activating knobs or buttons", and "providing user data to a controller" are required if the operation requires only one, or the other.

#### ***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 44-47, 49-51, and 54-55 are rejected under 35 U.S.C. 102(b) as being anticipated by Edamula [Pat. No. 4,837,414].

Edamula teaches a control system for a cooking appliance comprising a memory with two sections for two sets of functions (Figure 2, #116 & 123), a control panel with buttons that produces signals to select and provide parameter values (column 2, line 38), a remote controller that produces signals that select and provide pre-programmed functions and parameters separate from the functions and parameters of the control panel (Figure 2, #101; column 2, lines 41-45; Figure 8), appliance control means that respond to the remote controller by using programs and information stored in the memory to select and activate a heating element which can be convective or microwave (Figure 2, #121-122 & 124; column 2, line 47), transmitting and receiving means between the remote controller and the appliance control means (Figure 2, #113, 115, 121, 128), dynamically correcting a cooking program (Figure 7), and display means for status information (Figure 2, #117). Phrases such as "wherein the second functions dynamically change... during a cooking process" are merely preferred methods of using the claimed apparatus. Edamula also teaches a method of operating a cooking device by activating buttons on a control panel to provide a first set of parameter values (column 2, line 38), providing data signals to a controller to select pre-programmed control functions separate from the functions of the buttons (column 2, lines 41-45), and operating the device by use of these signals or controls (column 4, lines 26-46).

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edamula as applied to claim 44 above, in view of Schwarzbacker et al [Pat. No. 5,710,409]. Edamula teaches the above mentioned components. Edamula teaches a clock in the appliance control means (column 5, line 28). Edamula does not teach a clock in the remote controller which updates the appliance clock. Schwarzbacker et al teach a cooking device comprising a remote control (Figure 1, #51) which includes a clock which updates the appliance (column 4, line 35). It would have been obvious to one of ordinary skill in the art to incorporate the second clock of Schwarzbacker et al into the invention of Edamula since both are directed to cooking devices, since Edamula already included a clock and remote controller which displayed the cooking time (Figures 5A-C), and since Schwarzbacker et al teach that the second clock can be used to adjust and modify the cooking time (column 4, line 38).

17. Claims 52-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yasutake et al [Pat. No. 5,644,936] in view of Edamula. Yasutake et al teach a control system for a washing appliance (Figure 1, #2) comprising a memory (column 11, line 11), selecting the start time or conditions, temperature, timing or duration (column 6, lines 8-19), a control means (Figure 1, #14), and a

controller which sends and receives signals from the control means (Figure 1, #1). Yasutake et al do not teach a control panel with knobs and buttons. Edamula teaches a control system for an appliance comprising a memory with two sections for two sets of functions (Figure 2, #116 & 123), a control panel with buttons that produces signals to select and provide parameter values (column 2, line 38), a remote controller that produces signals that select and provide pre-programmed functions and parameters separate from the functions and parameters of the control panel (Figure 2, #101; column 2, lines 41-45), appliance control means that respond to the remote controller by using programs and information stored in the memory to select and activate a heating element which can be convective or microwave (Figure 2, #121-122 & 124; column 2, line 47), transmitting and receiving means between the remote controller and the appliance control means (Figure 2, #113, 115, 121, 128), and display means for status information (Figure 2, #117). It would have been obvious to one of ordinary skill in the art to incorporate the control panel of Edamula into the invention of Yasutake et al since both are directed to control systems for household appliances using scanners, since Yasutake et al already included a control means attached to the body of the washer (Figure 1, #14), since washers commonly included control panels with knobs and buttons as shown by Edamula (column 2, line 38), and since a control panel would provide manual use of the washer of Yasutake et al in the event that the remote controller was lost or damaged. Phrases such as "the time for washing is selected..." are merely preferred methods of using the claimed apparatus.

***Response to Arguments***

18. Applicant's arguments filed March 3, 2004 have been fully considered but they are not persuasive.

Applicant argues that Edamula does not control heating element section or configuration. However, Edamula specifically discloses the use of both convective heat and microwave heating (column 2, line 46).

Applicant argues that Edamula cannot adjust programs. However, Edamula specifically teaches correcting a cooking program (Figure 7) as well as a remote controller with buttons and other input devices (Figure 8).

Applicant argues that Edamula does not teach control of non-basic functions. However, Edamula specifically teaches the use of pre-programmed cooking recipes via a remote controller (column 2, lines 36-54).

***Conclusion***

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Thur. 8am-5pm and every other Fri. 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Drew E Becker  
Primary Examiner  
Art Unit 1761

4-29-04